

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Tuminello	Team: Squad #14	CCRB Case #: 201409570	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/17/2014 6:15 AM	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 103	18 Mo. SOL 1/17/2016	EO SOL 1/17/2016	
Date/Time CV Reported Wed, 09/17/2014 2:55 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 09/17/2014 2:55 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. Officers			GANG Q
2. POM Stephen Lalchan	21926	947149	GANG Q
3. DT3 Kevin Desormeau	3787	941653	GANG Q
4. An officer			GANG Q

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Sasha Cordoba	514	943104	GANG Q

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers entered and searched § 87(2)(b) [REDACTED] in Queens.	[REDACTED]
B. POM Stephen Lalchan	Abuse: PO Stephen Lalchan stopped § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED]	[REDACTED]
C. DT3 Kevin Desormeau	Abuse: Detective Kevin Desormeau stopped § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED]	[REDACTED]
D. An officer	Abuse: An officer stopped § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED]	[REDACTED]
E. DT3 Kevin Desormeau	Abuse: Detective Kevin Desormeau frisked § 87(2)(b) [REDACTED]	[REDACTED]
F. An officer	Abuse: An officer frisked § 87(2)(b) [REDACTED]	[REDACTED]
G. POM Stephen Lalchan	Abuse: PO Stephen Lalchan searched the vehicle in which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] were occupants.	[REDACTED]
H. DT3 Kevin Desormeau	Abuse: Detective Kevin Desormeau searched the vehicle in which § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] were occupants.	[REDACTED]
I. DT3 Kevin Desormeau	Abuse: Detective Kevin Desormeau entered and searched § 87(2)(b) [REDACTED] in Queens.	[REDACTED]
J. An officer	Abuse: An officer entered and searched § 87(2)(b) [REDACTED] in Queens.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b) § 87(2)(g)		
§ 87(4-b) § 87(2)(g)		

### Case Summary

On July 17, 2014, at approximately 6:15 a.m., § 87(2)(b) and § 87(2)(b) were both in bed on the second floor of § 87(2)(b)'s home located at § 87(2)(b) in Queens. Both individuals stated that they both heard a loud boom from the first floor and were approached by officers wearing masks and shields (**Allegation A**). § 87(2)(b) was able to identify from the officers' shirts that they were from Queens Gang. Both individuals were then escorted to the living room by the officers. § 87(2)(b) also stated that a man named § 87(2)(b) that lives in her basement was placed in the living room as well. § 87(2)(b) stated that marijuana was located inside the location but she was unsure if guns or drugs were located there. § 87(2)(b) and § 87(2)(b) were then escorted out of the location and arrested. At the 103<sup>rd</sup> Precinct stationhouse, § 87(2)(b) was provided a copy of search warrant number § 87(2)(b).

Later the same day, at approximately 8 a.m., § 87(2)(b)'s son, § 87(2)(b) was informed by a neighbor via telephone that officers were at the house. § 87(2)(b) then travelled to § 87(2)(b) with his cousin § 87(2)(b). According to § 87(2)(b) approximately two minutes after he arrived, an unmarked police vehicle pulled in front of his vehicle and three officers exited their vehicle. The investigation was able to identify two of these officers as PO Stephen Lalchan and Detective Kevin Desormeau of the Queens Gang Unit, but was unable to identify the third officer. § 87(2)(b) stated that the unidentified officer approached him as he stood outside his vehicle and PO Lalchan asked § 87(2)(b) to exit the vehicle (**Allegation B, C and D**). § 87(2)(b) alleged that an officer, identified by the investigation as Detective Desormeau, felt over his shorts pockets and shook them (**Allegation E**). § 87(2)(b) alleged that an officer, who was not identified by the investigation, frisked her (**Allegation F**). § 87(2)(b) alleged that his vehicle was searched by one of the officers, but the investigation determined that both PO Lalchan and Detective Desormeau searched the vehicle (**Allegations G and H**). The unidentified officer and Detective Desormeau then allegedly walked with § 87(2)(b) into his house, followed him up the stairs, and looked around his bedroom (**Allegations I and J**). The officers then escorted § 87(2)(b) out of the location. He was not arrested or issued a summons.

The case was initially assigned to Investigator Stephanie Mleczkowski. On September 24, 2014, this case was reassigned to Investigator Alex Tuminello.

### Mediation, Civil and Criminal Histories

- This case was deemed unsuitable for mediation because of the arrests related to the incident.
- On May 21, 2015, a Notice of Claim inquiry was sent to the NYC Comptroller's Office. The response will be added to the case file upon its receipt.

• [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) § 87(2)(b)
- Detective Desormeau has been a member of the service for eight years and has been the subject of 56 other CCRB allegations in 16 cases, one of which involved substantiated allegations. In case no. 201307838, allegations of physical force, a stop and a refusal to provide name and shield were substantiated and the board recommended charges; however, the NYPD did not impose any disciplinary action. § 87(2)(g) his previous complaints include three allegations that were closed as unsubstantiated and one vehicle stop

allegation that is currently being investigated, as well as six frisk allegations, one of which was closed as complainant uncooperative, and five of which are currently being investigated.

- PO Lalchan has been a member of the service for six years and has been the subject of nine previous CCRB allegations in four cases with no substantiated allegations. § 87(2)(g) his previous complaints include one vehicle stop allegation and one vehicle search allegation, both of which are currently being investigated.

### **Civilian Statements**

#### **Complainant/Victim/Witnesses:** § 87(2)(b)

- § 87(2)(b) filed this complaint on September 17, 2014, two months after the incident.
- On September 23, 2014, § 87(2)(b) and § 87(2)(b) were interviewed at the CCRB.
- On September 17, § 87(2)(b) provided a brief telephone statement to the CCRB. Subsequent attempts to schedule an in-person interview with him and his § 87(2)(b) old son, § 87(2)(b) were unsuccessful.
- According to the statements of § 87(2)(b) and § 87(2)(b) they were only present for the initial entry of § 87(2)(b) pursuant to the search warrant and they did not witness the other allegations later that day.

#### **Victim:** § 87(2)(b)

- On December 18, 2014, § 87(2)(b) was interviewed at the CCRB. Subsequent attempts to schedule a photo array viewing with him, in order to identify the unidentified subject officer, were unsuccessful.
- § 87(2)(b) stated that on July 17, 2014, at approximately 7:45 a.m. or 8 a.m., he was at his § 87(2)(b)'s house when he received a call from his neighbor, who he only identified as § 87(2)(b) who told him that officers were at his house. § 87(2)(b) travelled back to his home located at § 87(2)(b) in Queens and was accompanied by § 87(2)(b).
- § 87(2)(b) then exited the vehicle and inspected the inside of his home. When he exited the house, he observed a "smoke gray" Altima pull in front of his vehicle. § 87(2)(b) stated that three plain-clothed officers exited the vehicle. The investigation was able to identify PO Lalchan and Detective Desormeau as two of the officers that exited the vehicle. The investigation was unable to determine the identification of a third officer, who § 87(2)(b) described as a male in his 30s with brown hair who stood between 5'9" and 6' tall.
- The unidentified white male officer approached § 87(2)(b) as he stood outside of his vehicle and PO Lalchan approached the front passenger side of the vehicle where § 87(2)(b) was seated. An officer, who § 87(2)(b) described as the unidentified white male but the investigation determined to be Detective Desormeau, then felt over § 87(2)(b)'s shorts pockets and shook them for approximately two seconds. This officer then asked § 87(2)(b) "What are you doing here? Do you live here? I just saw you coming from the house?" § 87(2)(b) explained that he lived there and he was at the location turning the lights off and closing the doors that the officers left open. § 87(2)(b) alleged that PO Lalchan had § 87(2)(b) exit, turn around and place her hands on the vehicle. He was unable to see where PO Lalchan placed his hands on § 87(2)(b).
- § 87(2)(b) stated that he observed PO Lalchan walk around the front his car and open the front driver's side door. § 87(2)(b) stated that he observed PO Lalchan enter his vehicle but he did not see where he specifically searched because his view was obstructed. PO Lalchan was inside the vehicle for approximately two minutes.
- The unidentified white male officer and Detective Desormeau then walked § 87(2)(b).

towards the house and asked him if he had any guns and, specifically, asked about a nine millimeter handgun.

- At some point (it was unclear whether this was before or after the officers entered), § 87(2)(b) told the officers that they had not searched the house “right,” explained that he had a chest in his bedroom that they had not checked and told them they could check it.
- § 87(2)(b) entered his house and the officers followed him into the house. § 87(2)(b) did not specify why he went into the house, and when asked whether he was directed to go into the house by the officers, § 87(2)(b) replied by saying the officers were asking him questions about guns in the house. He said the officers were speaking to him “respectfully.”
- The officers went with him upstairs and looked around his bedroom. After a few minutes, they all went back downstairs and exited.
- § 87(2)(b) did not mention that any marijuana had been smoked prior to the incident or recovered during the incident.

**Victim:** § 87(2)(b)

- On December 17, 2014, § 87(2)(b) provided a brief phone statement to the CCRB. She scheduled an in-person interview at the CCRB for December 22, 2014; however, prior to her interview, she contacted the undersigned and said she was no longer interested in providing a statement.
- On July 17, 2014, § 87(2)(b) accompanied her cousin § 87(2)(b) back to his house after they received a phone call that his house had been raided by police. As they drove to the house, officers drove up from behind, exited their vehicle and asked both individuals to step out of the vehicle. She only indicated that there were two officers, whom she described as a black male in his mid-30s who stood 5'6" to 5'7" tall and had a medium build, and a white male who stood 5'4" to 5'5" tall. The investigation was able to identify the black male officer as Detective Desormeau, but the white male officer was unable to be identified by the investigation.
- § 87(2)(b) stated that Detective Desormeau patted her pants' pockets but she was unsure if he specifically stuck his hands inside her pockets. She alleged that the white male officer searched the interior of § 87(2)(b)'s vehicle. She did not recall the officers presenting a warrant at any point. She said the officers did not explain why they had stopped § 87(2)(b)'s vehicle. § 87(2)(b) stated that the officers then entered § 87(2)(b) § 87(2)(b) with § 87(2)(b) for approximately seven minutes. § 87(2)(b) remained outside and stated that the entirety of the incident lasted approximately 10 minutes. She did not mention that any marijuana had been smoked prior to the incident or recovered during the incident.

**Officer Statements**

**Subject Officer: PO Stephen Lalchan**

- On February 19, 2015, PO Lalchan was interviewed at the CCRB.
- PO Lalchan recorded entries in his memo book related to the execution of the search warrant, but he made no entries regarding the stop of § 87(2)(b) and § 87(2)(b) later that day.
- On July 17, 2014, at approximately 6 a.m., Queens Gang Squad executed search warrant number § 87(2)(b) at § 87(2)(b) in Queens. PO Lalchan was assigned as the Bunker Security Arresting Officer.
- PO Lalchan stated that he located a pistol-grip shotgun, black semi-automatic pistol, heroin and cocaine inside of the house. Three individuals identified by the investigation as § 87(2)(b) § 87(2)(b) and § 87(2)(b) were arrested and escorted back to the 103<sup>rd</sup> Precinct stationhouse.

- PO Lalchan stated that approximately an hour and a half to two hours after the incident, PO Lalchan and Detective Desormeau travelled back to the location to make sure the door was locked. Upon arrival, PO Lalchan observed § 87(2)(b) standing outside of an older model car. PO Lalchan exited the vehicle and asked § 87(2)(b) about his business at the location. § 87(2)(b) explained that he lived at the location and was getting something from the house. PO Lalchan also stated that a female, identified by the investigation as § 87(2)(b) was in the front seat of the vehicle.
- PO Lalchan stated that the vehicle had a strong odor of marijuana coming from inside of the vehicle. PO Lalchan asked § 87(2)(b) to exit the vehicle and PO Lalchan searched the interior of the vehicle with a flashlight. Specifically, he looked on the floor of the vehicle and in the side panels located on the front of the vehicle. He stated that Detective Desormeau remained outside of the vehicle with § 87(2)(b) and § 87(2)(b) as this occurred. The vehicle was searched for less than one minute and marijuana was not located inside the vehicle.
- § 87(2)(b) then explained to the officers that he had to get something from the house. Detective Desormeau accompanied § 87(2)(b) entering the house with him. The two were in the location for approximately ten minutes. PO Lalchan and Detective Desormeau then left the location.

**Subject Officer: Detective Kevin Desormeau**

- On March 26, 2015, Detective Desormeau was interviewed at the CCRB.
- Detective Desormeau recorded entries in his memo book related to the execution of the search warrant, but he made no entries regarding the stop of § 87(2)(b) and § 87(2)(b) later that day.
- On July 17, 2014, at approximately 6:15 a.m., Detective Desormeau was part of a team that executed a “no-knock” search warrant number § 87(2)(b) at § 87(2)(b) in Queens. He was assigned to Bunker One Recorder. Detective Desormeau stated that later in the day, he was with PO Lalchan, conducting enforcement near § 87(2)(g) and 108th Avenue in Queens.
- An individual, who Detective Desormeau later identified as § 87(2)(b) failed to signal while driving and the officers pulled him over near § 87(2)(b) in Queens. Detective Desormeau was unsure if this was directly in front of the house where the search warrant had been executed. As he approached the vehicle, he observed § 87(2)(b) toss a black item overhand from the front seat to the back seat. He stated that he could describe how long the item was or its shape, but said it appeared to him to be a weapon.
- He stated that as he approached the front driver’s side door, § 87(2)(b) appeared nervous and was fidgety, his hands were shaking and he was looking around with his eyes. Detective Desormeau asked for his license and registration and § 87(2)(b) stated that he did not have these. He also stated that he was coming from someone’s house and that a search warrant had been executed at his home earlier in the day. Detective Desormeau explained that as a motorist in New York State, he needed to have his license with him while driving. Detective Desormeau was unsure if he explained to § 87(2)(b) that he was present for the search warrant that had been conducted.
- § 87(2)(b) explained to Detective Desormeau that he had his identification in the house and asked if he could step out of the vehicle. Detective Desormeau allowed § 87(2)(b) to step out of the vehicle and frisked over his waistband for a few seconds. He explained to § 87(2)(b) that he had observed him toss an item that appeared to be a weapon to the back of the vehicle. Detective Desormeau stated that he opened the front driver’s side door and searched in the area around the front driver’s seat. He then opened the back front passenger side door and searched the back of the vehicle. He stated that this search lasted a couple of seconds. He

stated that he located a black flashlight on the floor and identified this as the item which he saw thrown. He was unsure if he asked § 87(2)(b) why he threw the item.

- Detective Desormeau stated that he allowed § 87(2)(b) to enter § 87(2)(b) in Queens in order to get his identification. Detective Desormeau then stated that he entered the house with § 87(2)(b). He initially stated that he entered the house because of the following reasons: § 87(2)(b) had been pulled over for failure to signal, prior investigation, prior recon and safety. Detective Desormeau was asked to elaborate on the reasons he provided, and he then explained that § 87(2)(b) had granted the officers permission to enter the location by telling them, “You guys can come in. You already searched the house.”
- Detective Desormeau stated that he was inside the location with § 87(2)(b) for two minutes before he located his ID. Detective Desormeau did not look anywhere in the location and stated that he never looked in a chest in § 87(2)(b)'s room. He was also unsure if any other officers entered the location with him. Detective Desormeau stated that he used his discretion not to issue § 87(2)(b) a summons for the alleged traffic violation. Detective Desormeau stated that at no point did any of the officers search the trunk of § 87(2)(b)'s vehicle. He did not recall a female civilian being present.

#### **Witness Officer: Detective Sasha Cordoba**

- On April 23, 2015, Detective Cordoba was interviewed at the CCRB.
- Detective Cordoba recorded entries in her memo book related to the execution of the search warrant, but she made no entries regarding the stop of § 87(2)(b) and § 87(2)(b) later that day.
- Detective Cordoba stated that on July 17, 2014, at approximately 6 a.m., she was present with officers from Queens South Gang when they conducted search warrant number at § 87(2)(b) in Queens. Detective Cordoba stated that as the officers entered the location, her assignment was animal control. She stated that she secured a vicious dog in the backyard and did not observe the officers enter.
- Detective Cordoba did not recall an incident involving § 87(2)(b) which occurred later in the day. She did not recognize § 87(2)(b) from his CCRB photograph and only recalled being present with PO Lalchan and Detective Desormeau during the initial execution of the warrant. She did not recall conducting enforcement with those officers.

#### **Police Documents**

- At the time of her CCRB interview, § 87(2)(b) provided the CCRB with a copy of the search warrant that was given to her by officers on the date of the incident. Additionally, a search warrant check confirmed that on July 10, 2014, search warrant number § 87(2)(b) was issued to PO Stephen Lalchan for § 87(2)(b) in Queens. The warrant was issued for the home and shed (Board Review 10 and 12).
- Arrest report numbers § 87(2)(b) indicate that at approximately 6 a.m., on July 17, 2014, inside of § 87(2)(b) in Queens, § 87(2)(b) and § 87(2)(b) were arrested by PO Lalchan (Board Review 11).
- According to the Tour 1 Command Log from the 103<sup>rd</sup> Precinct on July 17, 2014, at approximately 7:46 a.m., § 87(2)(b) and § 87(2)(b) were logged into the stationhouse by PO Lalchan. Their physical and mental conditions are all listed as apparently normal. At approximately 10:45 a.m., § 87(2)(b) was released with a desk appearance ticket and both § 87(2)(b) and § 87(2)(b) were transported to Queens Central Booking via vehicle numbers 1053 and 8870 respectively (Board Review 13).
- According to the Queens South Gang roll call and movement log from the date of incident (Board Review 15), PO Lalchan, Detective Desormeau, and Detective Cordoba left the

command together at 5 a.m. for the 103<sup>rd</sup> Precinct regarding a search warrant and returned to the command at 1:45 p.m. PO Lalchan ended his tour at 3:30 p.m. and Detective Desormeau ended his tour at 4 p.m.

## **Findings and Recommendations**

### **Explanation of Officer Identification**

- All of the officers interviewed in regards to the investigation confirmed that officers assigned to Queens South Gang entered and searched § 87(2)(b) in Queens based upon search warrant number § 87(2)(b) § 87(2)(g) [REDACTED]
- § 87(2)(b) alleged that upon inspecting the inside of his home located at § 87(2)(b) in Queens, he walked back outside and three plain-clothed officers approached his vehicle. Both PO Lalchan and Detective Desormeau confirmed that they encountered § 87(2)(b) in front of § 87(2)(b). § 87(2)(b)'s physical descriptions of both officers correspond to their distinct pedigree information: PO Lalchan was described as a brown-skinned Guyanese or Trinidadian male with black spiky hair, and Detective Desormeau was described as a bald black male in his mid-30s, 5'9" to 6' tall. § 87(2)(b) alleged that a third officer was present, who he described as a white male; however, the investigation was unable to identify this officer. § 87(2)(b) also recalled a white male officer being present, but her description of the officer contradicted § 87(2)(b)'s description. § 87(2)(b) was uncooperative with attempts to schedule a photo viewing. The movement log places Detective Cordoba in a vehicle with PO Lalchan and Detective Desormeau at the time of the incident. However, Detective Cordoba is a Hispanic female, she denied being present and the other officers did not place her at the scene with them later in the day. § 87(2)(g) PO Lalchan said that only he and Detective Desormeau were present, and § 87(2)(b) also only recalled two officers being present. § 87(2)(g) [REDACTED]
- § 87(2)(b) alleged that the unidentified white male officer approached him and frisked his shorts pockets; however, it remains in dispute whether a white male officer was present. Furthermore, Detective Desormeau testified in his CCRB statement that he was the officer who frisked § 87(2)(b) § 87(2)(g) [REDACTED]
- § 87(2)(b) alleged that an officer matching the pedigree of PO Lalchan searched § 87(2)(b) § 87(2)(b) who only provided a phone statement and then became uncooperative, only alleged that she was frisked, but her description of the subject officer matched the pedigree information of Detective Desormeau. Without more information or the continued cooperation of § 87(2)(b) the officer who allegedly frisked her could not be identified. § 87(2)(g) [REDACTED]
- § 87(2)(b) alleged that he observed an officer, whose description matched the pedigree information of PO Lalchan, search the inside of his vehicle. However, both PO Lalchan and Detective Desormeau testified that they searched the vehicle. § 87(2)(g) [REDACTED]
- § 87(2)(b) alleged that Detective Desormeau and the unidentified white officer walked into his house with him, followed him upstairs, looked around his bedroom, and searched inside a chest. Both Detective Desormeau and PO Lalchan identified Detective Desormeau as the



officer who entered the house with § 87(2)(b) § 87(2)(g) Detective Desormeau did not recall if any other officers were present during the entry. The investigation was unable to identify the third officer at the location, or even confirm that there was a third officer. § 87(2)(g)

### **Allegations Not Pleaded**

- **Abuse of Authority- Failure to show a search warrant:** § 87(2)(b) complained that she requested to see a search warrant approximately four times on the date of the incident. However, during § 87(2)(b)'s CCRB statement, she provided a copy of the warrant that she said was given to her at the stationhouse after the incident. § 87(2)(g)

- **Abuse of Authority- Search:** § 87(2)(g)

### **Allegation A: Abuse of Authority- Officers entered and searched § 87(2)(b) in Queens.**

It is undisputed that officers from Queens South Gang entered and searched § 87(2)(b) in Queens based upon a valid search warrant number § 87(2)(b) issued by the Criminal Court of the City of New York on § 87(2)(b).

Article 690.05 of the New York State Criminal Procedure Law explicitly states that a search warrant is a court order and process directing police to conduct a search of the designated premises for the purpose of seizing property or kinds of property and to deliver any property so obtained to the court which issued the warrant (Board Review 01).

§ 87(2)(g)

### **Allegation B: Abuse of Authority- PO Stephen Lalchan stopped § 87(2)(b) and § 87(2)(b)**

### **Allegation C: Abuse of Authority- Detective Kevin Desormeau stopped § 87(2)(b) and § 87(2)(b)**

### **Allegation D: Abuse of Authority- An officer stopped § 87(2)(b) and § 87(2)(b)**

### **Allegation E: Abuse of Authority- Detective Kevin Desormeau frisked § 87(2)(b)**

§ 87(2)(b) testified that he travelled to § 87(2)(b) in Queens with his cousin § 87(2)(b) and then entered the location by himself. He said that after being in the house for approximately two minutes, he observed a gray Nissan Altima pull in front of his vehicle. Two officers, identified by the investigation as Detective Desormeau and PO Lalchan, exited the vehicle. § 87(2)(b) said the officers were accompanied by a third white male officer, who was not identified by the investigation. § 87(2)(b) alleged that PO Lalchan opened the front passenger side door and asked § 87(2)(b) to step-out of the vehicle while the two other officers approached him. § 87(2)(b) alleged that upon being approached, an officer felt over his shorts pockets and shook them for approximately two seconds, and asked him what he was doing at the location. As discussed above, § 87(2)(b) attributed these actions to the white officer, but the investigation

determined that it was Detective Desormeau. § 87(2)(b) recalled that two plain-clothed officers stopped her and § 87(2)(b)

PO Lalchan stated that about one to two hours after the warrant execution, he and Detective Desormeau travelled back to § 87(2)(b) in Queens to make sure that the door to the location was locked. Upon arrival, PO Lalchan observed an individual identified by the investigation as § 87(2)(b) standing outside of an older model car. PO Lalchan exited the vehicle and asked § 87(2)(b) about his business at the location. § 87(2)(b) explained that he lived at the location and he was there to get something from the house. PO Lalchan also stated that a female identified by the investigation as § 87(2)(b) was located in the front seat of the vehicle. PO Lalchan stated that the vehicle had a strong odor of marijuana coming from the inside. PO Lalchan then asked § 87(2)(b) to exit the vehicle.

Detective Desormeau stated that he and PO Lalchan were conducting enforcement near § 87(2)(b) and 108<sup>th</sup> Avenue in Queens. Detective Desormeau stated that § 87(2)(b) failed to signal and the officers pulled him over in the vicinity of § 87(2)(b) but he was unsure the vehicle stop occurred directly in front of the house where the warrant had been executed. Detective Desormeau alleged that as he approached the vehicle, he observed § 87(2)(b) toss a black item, which he could not describe further, into the back seat. He was unsure if the other officers observed the item being tossed or if he articulated any information to the officers about the item. He stated that as he approached the front driver's side door, § 87(2)(b) appeared nervous and was fidgety, his hands were shaking and he was looking around with his eyes. Detective Desormeau asked for his license and registration and § 87(2)(b) stated that he did not have it. § 87(2)(b) also stated that he was coming from someone's house and a search warrant had been executed at his home earlier in the day. Detective Desormeau explained that as a motorist in New York State, he had to be driving with his license. He was unsure if he explained to § 87(2)(b) that he was present for the search warrant that was conducted. § 87(2)(b) explained to Detective Desormeau that he had his identification in the house and asked if he could step out of the vehicle. Detective Desormeau allowed § 87(2)(b) to step-out of the vehicle and frisked over his waistband for a few seconds. He also explained to § 87(2)(b) that he observed him toss an item that appeared to be a weapon to the back of the vehicle.

Where a police officer entertains a reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or a misdemeanor, the CPL authorizes a forcible stop and detention of that person. A corollary of the statutory right to temporarily detain for questioning is the authority to frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed. People v. Debour, 40 N.Y. 2d 210 (1976) (Board Review 02).

§ 87(2)(g)

PO Lalchan recalled that he smelled marijuana coming from the vehicle, § 87(2)(g) but this was not corroborated by anyone

else or supported by any documentation, and marijuana was not found. Detective Desormeau recalled that the stop was the result of a traffic violation, and that he frisked § 87(2)(b) in response to seeing § 87(2)(b) sitting in his vehicle, appearing fidgety and nervous, and seeing him toss what Detective Desormeau suspected was a weapon into the back seat. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation F: Abuse of Authority- An officer frisked § 87(2)(b)**

In a phone statement, § 87(2)(b) alleged that an officer, whose description matched Detective Desormeau, frisked her pants pockets. As discussed above, § 87(2)(b) refused to provide a sworn statement and was subsequently deemed uncooperative. In a verified statement, § 87(2)(b) alleged that an officer, whose description matched PO Lalchan, searched § 87(2)(b) however, § 87(2)(b) could not provide specifics about the search and eventually acknowledged that he did not actually see her being searched. Neither officer had a recollection of § 87(2)(b) being frisked. Detective Desormeau did not even recall § 87(2)(b) being present.

§ 87(2)(g)

**Allegation G: Abuse of Authority- PO Stephen Lalchan searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation H: Abuse of Authority- Detective Kevin Desormeau searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) alleged that he observed PO Lalchan walk to the front of his vehicle and open his front driver's side door. § 87(2)(b) did not see where PO Lalchan specifically searched because his view was obstructed but stated that PO Lalchan was in the vehicle for approximately two minutes. § 87(2)(b) then alleged that as the unidentified white male officer and Detective Desormeau walked with him towards his house, he observed PO Lalchan open his trunk and search inside.

As previously noted, PO Lalchan alleged that § 87(2)(b)'s vehicle had a strong odor of marijuana coming from the inside. PO Lalchan stated that upon asking § 87(2)(b) to step out of the vehicle, he searched the interior of the vehicle with a flashlight. He stated that he specifically looked on the floor and in the side panels located in the front of the vehicle. He stated that he

searched the interior of the vehicle for approximately less than a minute and marijuana was not located.

As previously noted, Detective Desormeau claimed that he observed § 87(2)(b) toss a black item into the back seat. He said that after frisking § 87(2)(b)'s waistband, he opened the front driver's side door and searched the area around the front driver's seat. Detective Desormeau then opened the back door on the passenger side of the vehicle and searched the back of the vehicle. He stated that this search lasted a couple of seconds. He located a black flashlight on the floor and identified this as the item which he saw thrown. He was unsure if he asked § 87(2)(b) why he threw the item.

A vehicle may be searched without a warrant pursuant to the "automobile exception" if law enforcement officials have probable cause to believe that the vehicle contains contraband, evidence of a crime, a weapon or some means of escape. People v. Smith, 949 N.Y.S. 2d 474 (2012) (Board Review 03).

§ 87(2)(g)

§ 87(2)(g)

**Allegation I: Abuse of Authority- Detective Kevin Desormeau entered and searched § 87(2)(b) in Queens.**

**Allegation J: Abuse of Authority- An officer entered and searched § 87(2)(b) in Queens.**

§ 87(2)(b) alleged that Detective Desormeau and the unidentified white officer walked § 87(2)(b) towards his house and asked him about guns in the house and his uncle selling drugs in the house. At some point, though it was unclear whether it was before or after the officers entered the house, § 87(2)(b) told the officers that they had not searched the house "right." He explained to them that he had a chest in his bedroom that they had not checked and told them they could check it. § 87(2)(b) entered his house and the officers followed him in. § 87(2)(b) did not specify why he went into the house, and when asked whether he was directed to go into the house by the officers, § 87(2)(b) only replied that the officers had been asking him questions about guns in the house. The officers went with him upstairs and looked around his bedroom, and after a few minutes, they all went back downstairs and exited.

Detective Desormeau explained that he allowed § 87(2)(b) to enter § 87(2)(b) in Queens in order to get his identification, which he did not have when the stop was initiated. Detective Desormeau admitted entering the house with § 87(2)(b) but he was unsure whether any other officers entered the location with them. Detective Desormeau initially stated that he entered the house because of the following reasons: § 87(2)(b) had been pulled over for a failure to signal, prior investigation, prior recon and safety. When Detective Desormeau was asked to elaborate on these reasons, Detective Desormeau then added that § 87(2)(b) had granted

permission to enter the location by stating, “You guys can come in. You already searched the house.” Detective Desormeau stated that he was inside of the location with § 87(2)(b) for two minutes before § 87(2)(b) located his ID. Detective Desormeau stated that he did not look anywhere inside of the location and he never looked inside of a chest in § 87(2)(b)’s room.

PO Lalchan testified that § 87(2)(b) explained to the officers that he had to get something from the house. PO Lalchan said he remained outside of the location and that Detective Desormeau entered the location with § 87(2)(b).

The police may lawfully conduct a warrantless search when they have obtained the voluntary consent of a party who possesses the requisite degree of authority and control over the premises or personal property in question. People v. Cosme, 48 N.Y. 2d 286 (1979) (Board Review 04).

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(2)(g)  
[REDACTED]

§ 87(4-b) § 87(2)(g)  
[REDACTED]

Pod: 14

Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date